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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/277,373	03/29/1999	MASAAKI IMAI	103014	3450

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EXAMINER

KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 02/23/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/277,373

Applicant(s)

IMAI, MASAOKI

Examiner

Chuck O Kendall

Art Unit

2122

P29

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 6, 8, 9, 12, 14, 17, 20, 21, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6, 8, 9, 12, 14, 17, 20, 21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Remarks

1. This Office Action is the response to the communication received on November 24, 2003. Reconsideration of the instant application is requested by Applicant. All such supporting documentation has been placed of record in the file. Claims 1, 3, 6, 8, 9, 12, 14, 17, 20, 21, 24 & 25 are pending.

a. Previously claims 1 – 8, & 20 – 25 were rejected under 35 U.S.C.

103(a) as being unpatentable over USPN 5,706,431 in view of Kalwitz al.

USPN 5,815,722 and Claims 9 – 19 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Oto in view of Kalwitz al. USPN 5,815,722 and further in view of Herman et al USPN 5,737,536.

b. In this action claims 1, 6, 12, 17, 24 & 25 are being amended and claims 2, 4, 5, 7, 10, 11, 13, 15, 16, 18, 19, 22 & 23 have been cancelled.

c. Following is the rejection of claims under 35 USC § 103 as necessitated by amendment.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3,6, 8,12, 14, 17, 20, 21, 24 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oto USPN 5,706,431 in view of Kalwitz al. USPN 5,815,722.

Regarding claims 1, 20, 21, 24 & 25 Oto discloses a system, method (For system and method see title) and peripheral device connected to a network comprising:

A device judgment unit that judges whether another peripheral device, that is a same type as the peripheral device (FIG. 5, 130a);

a transmission unit that performs transmission and reception of data over the network to and from another peripheral device connected to the network (Col.2: 33 – 45 see node and see definition of node on 3:1 – 5);

a memory that stores a software program in a re-writable manner, the software program being software used by the peripheral device for executing prescribed operations (2:27 – 28);

a type judgment unit that judges whether the another peripheral device stores, in a re-writable manner, a same type of software program as the software program stored in the memory, the same type of software program being software to be used by the another peripheral device for executing prescribed operations (2:30 – 40 see current status and revisions, and revision required also refer to FIG. 5, 555); an old/new judgment unit that, when the device judgment unit that judges whether another peripheral device is connected to the network and the type judgment unit judges that the another peripheral device stores the same type of software program in a rewritable manner, judges which of the same type of software program stored in the another peripheral device and the software program stored in the memory is at least one of older and newer; and (FIG.5, 500); a first rewrite unit that, when the new/old judgment unit judges that the same type of software program stored in the another peripheral device is older than the software stored in the memory, rewrites the same type of software program stored in the another peripheral device into the software program stored in the memory and a second rewrite unit when that when the old/new judgment

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unit judges that the same type of software program stored in the another peripheral device is newer than the software stored in memory, rewrites the software program stored in the memory into the same type of software program stored in the another peripheral device (FIG. 5, 560, 565, also see Col.2: 45 – 55, for “ Nodes in the network are responsible for both detecting when a revision to information in another node is necessary and transmitting the revision to the other node”). Oto doesn't explicitly disclose a peripheral device is connected to the network. However Kalwitz et al does disclose this feature (4:1 - 10). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oto, with Kalwitz to implement the instant claimed invention because, using peripheral devices stand alone devices to perform updates is convenient and inexpensive (Kalwitz, 4: 19 – 23).

Regarding claim 3, a peripheral device as claimed in claim 1, wherein the type judgment unit performs judgment for all other peripheral devices connected to the network (Oto, 2:43 – 44, cites first second and third thereof) and the old/new judgment unit performs judgment on the all other devices that are judged to store the same type of software program by the type judgment unit (Oto, FIG. 5, 500).

Regarding claim 6, the system version of claim 1, see rationale as previously discussed above.

Regarding claim 8, the network system as claimed in claim 6, wherein the type judgment unit performs judgment for all other peripheral devices connected to the network (Oto, FIG.5, 110 and 130a); and the old/new judgment unit performs judgment on all other peripheral devices that are judged to store the same type software program by the judgment unit (Oto, Col. 2: 45 – 55).

Regarding claim 12, which discloses the memory medium version of claim 1, see rationale as previously discussed above.

Regarding claim 14, the memory medium of claim 12, wherein the first program judges for all devices connected to the network; and the second program performs judgment on all other devices that are judged to store the same type software program by the first program (Oto, Col. 2: 45 – 55).

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Regarding claim 17, which discloses a network printer version of claim 1, see rationale as previously discussed above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oto USPN 5,706,431 in view of Kalwitz al. USPN 5,815,722 as applied in claim 6, and further in view of Herman et al USPN 5,737,536 hereinafter Herman

Regarding claim 9, Otto as modified with Kalwitz discloses all the claimed limitations as applied in claim 6. The combination of Otto and Kalwitz does not explicitly disclose a rewrite prevention unit for preventing updating. However, Hermann discloses preventing updating (2:43 – 47), in an analogous art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the modification of Otto and Kalwitz with Herman to implement the instant claimed invention because, it's a common practice during updating for controlling access to shared data.

***Response to Arguments***

6. Applicant's arguments filed 11/24/2003 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### **Correspondence Information**

8. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam *can be reached at (703) 305-4552*.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

For facsimile (fax) send to central FAX number 703-872-9306 and 703-7467240 draft.

*Chuck B. Kendall*

*Software Engineer Patent Examiner*

A handwritten signature in black ink, appearing to read 'Tuan Dam', with a long horizontal flourish extending to the right.

**TUAN DAM  
SUPERVISORY PATENT EXAMINER**